

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2391

AN ACT

AMENDING SECTIONS 41-1972, 41-1973, 41-1975, 41-1976 AND 41-2501, ARIZONA
REVISED STATUTES; RELATING TO THE ARIZONA INDUSTRIES FOR THE BLIND.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1972, Arizona Revised Statutes, is amended to
3 read:

4 41-1972. Activities of Arizona industries for the blind

5 A. For the purposes of the program of industries for the blind
6 authorized by this article, the ~~state~~ department of economic security may
7 equip and operate one or more ~~training centers, one or more workshops, a~~
8 ~~business enterprise program, and a home industries program~~ BUSINESS UNITS for
9 training and employment of ~~adaptable~~ PEOPLE WHO ARE blind persons.

10 B. The ~~state~~ department of economic security may devise ways and means
11 for the sale, distribution and marketing of the products AND SERVICES of the
12 ~~training centers, workshops and home industries~~ ARIZONA INDUSTRIES FOR THE
13 BLIND THAT ARE authorized by subsection A.

14 C. The ~~state~~ department of economic security ~~may~~, in addition to the
15 activities authorized by subsections A and B, MAY aid individual ~~blind~~
16 persons WHO ARE BLIND or groups of ~~such~~ THESE persons to become
17 self-supporting by supplying materials, equipment or machinery to them, and
18 may also aid them in the sale and distribution of their products OR SERVICES.

19 Sec. 2. Section 41-1973, Arizona Revised Statutes, is amended to read:

20 41-1973. Compensation of workers; proportion of workers
21 required to be legally blind; state employee status;
22 definition

23 A. The department of economic security may compensate blind and other
24 workers for their work ~~in the training centers, workshops and home industries~~
25 AT THE ARIZONA INDUSTRIES FOR THE BLIND THAT IS authorized in section
26 41-1972, subsections A and B, but a minimum of seventy-five per cent of those
27 workers in each of the ~~training centers, workshops and home industries~~
28 BUSINESS UNITS shall be legally blind.

29 B. Persons ~~participating~~ WHO PARTICIPATE in activities authorized by
30 this article and WHO ARE determined by the department of economic security to
31 be blind or otherwise handicapped persons are state employees but are not
32 entitled to the benefits of the merit system procedures pertaining to the
33 recruitment and retention of regular administrative employees of the
34 department.

35 C. For purposes of this section, "legally blind" means any person who:

36 1. Has no vision or visual acuity.

37 2. Has central visual acuity of 20/200 or less in the better eye, with
38 the best correction by single magnification.

39 3. Has a field defect in which the peripheral field has been
40 contracted to such an extent that the widest diameter of visual field
41 subtends an angular distance no greater than twenty degrees.

1 Sec. 3. Section 41-1975, Arizona Revised Statutes, is amended to read:

2 41-1975. Industries for the blind fund; disbursements;
3 subsidies; investment

4 A. Proceeds from sales of products AND SERVICES of THE Arizona
5 industries for the blind shall be paid into a nonreverting revolving fund.
6 The fund shall be known as the industries for the blind fund.

7 B. Expenditures for wages and salaries of and employer contributions
8 under title 38, chapter 5, articles 2 and 2.1 for production workers,
9 inspectors and other employees necessary for the operation of the ~~training~~
10 ~~centers, workshops or home industries~~ ARIZONA INDUSTRIES FOR THE BLIND, and
11 for supplies, materials, equipment, equipment repair, overhead costs and
12 other costs incidental to the conduct of the program, may be made from the
13 industries for the blind fund.

14 C. The department of economic security, in addition to the monies paid
15 into the industries for the blind fund as provided in subsection A of this
16 section, may provide subsidy monies necessary to meet the costs set forth in
17 subsection B of this section from other monies available to the department
18 for rehabilitative purposes.

19 D. On notice from the Arizona industries for the blind, the state
20 treasurer shall invest and divest monies in the industries for the blind fund
21 as provided by section 35-313, and monies earned from investment shall be
22 credited to the fund.

23 Sec. 4. Section 41-1976, Arizona Revised Statutes, is amended to read:

24 41-1976. Prohibition on disposal of goods labeled or sold as
25 products of the blind without permit; violation;
26 classification

27 A. A person, group of persons or organization of any description may
28 not sell, market or otherwise dispose of to the public, by any means, any
29 goods, SERVICES or articles labeled as made by the blind or sold as products
30 OR SERVICES of the blind, either of this state or any other state, without a
31 permit in writing from the ~~state~~ department of economic security ~~upon~~ ON a
32 form prescribed by the department.

33 B. Issuance of permits as provided for in subsection A shall be at the
34 discretion of and subject to rules of the department.

35 C. A person violating any provision of this section is guilty of a
36 class 3 misdemeanor.

37 Sec. 5. Section 41-2501, Arizona Revised Statutes, is amended to read:

38 41-2501. Applicability

39 A. This chapter applies only to procurements initiated after January
40 1, 1985 unless the parties agree to its application to procurements initiated
41 before that date.

42 B. This chapter applies to every expenditure of public monies,
43 including federal assistance monies except as otherwise specified in section
44 41-2637, by this state, acting through a state governmental unit as defined
45 in this chapter, under any contract, except that this chapter does not apply

1 to either grants as defined in this chapter, or contracts between this state
2 and its political subdivisions or other governments, except as provided in
3 chapter 24 of this title and in article 10 of this chapter. This chapter
4 also applies to the disposal of state materials. This chapter and rules
5 adopted under this chapter do not prevent any state governmental unit or
6 political subdivision from complying with the terms of any grant, gift,
7 bequest or cooperative agreement.

8 C. All political subdivisions and other local public agencies of this
9 state may adopt all or any part of this chapter and the rules adopted
10 pursuant to this chapter.

11 D. The Arizona board of regents, the legislative and judicial branches
12 of state government and the state compensation fund are not subject to ~~the~~
13 ~~provisions of~~ this chapter except as prescribed in subsection E of this
14 section.

15 E. The Arizona board of regents and the judicial branch shall adopt
16 rules prescribing procurement policies and procedures for themselves and
17 institutions under their jurisdiction. The rules must be substantially
18 equivalent to the policies and procedures prescribed in this chapter.

19 F. The Arizona state lottery commission is exempt from ~~the provisions~~
20 ~~of~~ this chapter for procurement relating to the design and operation of the
21 lottery or purchase of lottery equipment, tickets and related materials. The
22 executive director of the Arizona state lottery commission shall adopt rules
23 substantially equivalent to the policies and procedures in this chapter for
24 procurement relating to the design and operation of the lottery or purchase
25 of lottery equipment, tickets or related materials. All other procurement
26 shall be as prescribed by this chapter.

27 G. The Arizona health care cost containment system administration is
28 exempt from ~~the provisions of~~ this chapter for provider contracts pursuant to
29 section 36-2904, subsection A and contracts for goods and services, including
30 program contractor contracts pursuant to title 36, chapter 29, articles 2
31 and 3. All other procurement, including contracts for the statewide
32 administrator of the program pursuant to section 36-2903, subsection B, shall
33 be as prescribed by this chapter.

34 H. Arizona industries for the blind is exempt from ~~the provisions of~~
35 this chapter for purchases of finished goods from members of national
36 industries for the blind and for purchases of ~~raw~~ materials, COMPONENTS,
37 SUPPLIES, EQUIPMENT AND SERVICES for use in the manufacture of products AND
38 THE PERFORMANCE OF SERVICES for sale pursuant to section 41-1972. All other
39 procurement shall be as prescribed by this chapter.

40 I. Arizona correctional industries is exempt from ~~the provisions of~~
41 this chapter for purchases of raw materials, components and supplies that are
42 used in the manufacture or production of goods or services for sale entered
43 into pursuant to section 41-1622. All other procurement shall be as
44 prescribed by this chapter.

1 J. The state transportation board and the director of the department
2 of transportation are exempt from ~~the provisions of~~ this chapter other than
3 section 41-2586 for the procurement of construction or reconstruction,
4 including engineering services, of transportation facilities or highway
5 facilities and any other services that are directly related to land titles,
6 appraisals, real property acquisition, relocation, property management or
7 building facility design and construction for highway development and that
8 are required pursuant to title 28, chapter 20.

9 K. The Arizona highways magazine is exempt from ~~the provisions of~~ this
10 chapter for contracts for the production, promotion, distribution and sale of
11 the magazine and related products and for contracts for sole source creative
12 works entered into pursuant to section 28-7314, subsection A, paragraph 5.
13 All other procurement shall be as prescribed by this chapter.

14 L. The secretary of state is exempt from ~~the provisions of~~ this
15 chapter for contracts entered into pursuant to section 41-1012 to publish and
16 sell the administrative code. All other procurement shall be as prescribed
17 by this chapter.

18 M. ~~The provisions of~~ This chapter ~~are~~ IS not applicable to contracts
19 for professional witnesses if the purpose of such contracts is to provide for
20 professional services or testimony relating to an existing or probable
21 judicial proceeding in which this state is or may become a party or to
22 contract for special investigative services for law enforcement purposes.

23 N. The head of any state governmental unit, in relation to any
24 contract exempted by this section from ~~the provisions of~~ this chapter, has
25 the same authority to adopt rules, procedures or policies as is delegated to
26 the director pursuant to this chapter.

27 O. Agreements negotiated by legal counsel representing this state in
28 settlement of litigation or threatened litigation are exempt from ~~the~~
29 ~~provisions of~~ this chapter.

30 P. ~~The provisions of~~ This chapter ~~are~~ IS not applicable to contracts
31 entered into by the department of economic security:

32 1. With a provider licensed or certified by an agency of this state to
33 provide child day care services or with a provider of family foster care
34 pursuant to section 8-503 or 36-554.

35 2. With area agencies on aging created pursuant to the older Americans
36 act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001
37 through 3058ee).

38 3. For services pursuant to title 36, chapter 29, article 2.

39 4. With an eligible entity as defined by Public Law 105-285, section
40 673(1)(a)(i), as amended, for designated community services block grant
41 program monies and any other monies given to the eligible entity that
42 accomplishes the purpose of Public Law 105-285, section 672.

43 Q. The department of health services may not require that persons with
44 whom it contracts follow ~~the provisions of~~ this chapter for the purposes of
45 subcontracts entered into for the provision of the following:

1 1. Mental health services pursuant to section 36-189, subsection B.
2 2. Services for the seriously mentally ill pursuant to title 36,
3 chapter 5, article 10.

4 3. Drug and alcohol services pursuant to section 36-141.

5 4. Domestic violence services pursuant to title 36, chapter 30,
6 article 1.

7 R. The department of health services is exempt from ~~the provisions of~~
8 this chapter for contracts for services of physicians at the Arizona state
9 hospital.

10 S. Contracts for goods and services approved by the fund manager of
11 the public safety personnel retirement system are exempt from ~~the provisions~~
12 ~~of~~ this chapter.

13 T. The Arizona department of agriculture is exempt from this chapter
14 with respect to contracts for private labor and equipment to effect cotton or
15 cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2,
16 article 1. On or before September 1 of each year, the director of the
17 Arizona department of agriculture shall establish and announce costs for each
18 acre of cotton or cotton stubble to be abated by private contractors.

19 U. The Arizona state parks board is exempt from ~~the provisions of~~ this
20 chapter for purchases of guest supplies and items for resale such as food,
21 linens, gift items, sundries, furniture, china, glassware and utensils for
22 the facilities located in the Tonto natural bridge state park.

23 V. The Arizona state parks board is exempt from ~~the provisions of~~ this
24 chapter for the purchase, production, promotion, distribution and sale of
25 publications, souvenirs and sundry items obtained and produced for resale.

26 W. The Arizona state schools for the deaf and the blind are exempt
27 from ~~the provisions of~~ this chapter when purchasing products through a
28 cooperative that is organized and operates in accordance with state law if
29 such products are not available on a statewide contract and are related to
30 the operation of the schools or are products for which special discounts are
31 offered for educational institutions.

32 X. Expenditures of monies in the morale, welfare and recreational fund
33 established by section 26-153 are exempt from ~~the provisions of~~ this chapter.

34 Y. Notwithstanding section 41-2534, the director of the state
35 department of corrections may contract with local medical providers in
36 counties with a population of less than four hundred thousand persons
37 according to the most recent United States decennial census for the following
38 purposes:

39 1. To acquire hospital and professional medical services for inmates
40 who are incarcerated in state department of corrections facilities that are
41 located in those counties.

42 2. To ensure the availability of emergency medical services to inmates
43 in all counties by contracting with the closest medical facility that offers
44 emergency treatment and stabilization.

1 Z. The department of environmental quality is exempt from ~~the~~
2 ~~provisions of~~ this chapter for contracting for procurements relating to the
3 water quality assurance revolving fund program established pursuant to title
4 49, chapter 2, article 5. The department shall engage in a source selection
5 process that is similar to the procedures prescribed by this chapter. The
6 department may contract for remedial actions with a single selection process.
7 The exclusive remedy for disputes or claims relating to contracting pursuant
8 to this subsection is as prescribed by article 9 of this chapter and the
9 rules adopted pursuant to that article. All other procurement by the
10 department shall be as prescribed by this chapter.

11 AA. The motor vehicle division of the department of transportation is
12 exempt from ~~the provisions of~~ this chapter for third party authorizations
13 pursuant to title 28, chapter 13, only if all of the following conditions
14 exist:

15 1. The division does not pay any public monies to an authorized third
16 party.

17 2. Exclusivity is not granted to an authorized third party.

18 3. The director has complied with the requirements prescribed in title
19 28, chapter 13 in selecting an authorized third party.

20 BB. This section does not exempt third party authorizations pursuant
21 to title 28, chapter 13 from any other applicable law.

22 CC. The state forester is exempt from ~~the provisions of~~ this chapter
23 for purchases and contracts relating to ~~wild-land~~ WILDLAND fire suppression
24 and pre-positioning equipment resources and for other activities related to
25 combating ~~wild-land~~ WILDLAND fires and other unplanned risk activities,
26 including fire, flood, earthquake, wind and hazardous material responses.
27 All other procurement by the state forester shall be as prescribed by this
28 chapter.

29 DD. The cotton research and protection council is exempt from ~~the~~
30 ~~provisions of~~ this chapter for procurements relating to its aflatoxin control
31 program and for contracts for research programs related to cotton production
32 or protection.

33 EE. Expenditures of monies in the Arizona agricultural protection fund
34 established by section 3-3304 are exempt from this chapter.